



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 02022-99
25 January 2001

L [REDACTED] USNR
[REDACTED]
[REDACTED]

Dear Lieut [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 17 June 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. They noted your civil trial on a charge of driving under the influence of alcohol did not result in an acquittal. Your unsupported assertions did not persuade the Board that the breath analysis test result in your case, reflecting a blood alcohol content of .22, was inaccurate or obtained in violation of applicable procedures. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

2022-99



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

IN REPLY REFER TO

1611
Ser 834C/973
17 Jun 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters, NPC-00ZCB

Subj: [REDACTED] BCNR 555 [REDACTED]

Ref: (a) BCNR memo 5420 Pers-00ZCB of 8 Jun 99
(b) COMPATWING FIVE ltr 1620 Ser 00/00380
of 28 May 97 w/end
(c) SECNAVINST 5300.29A
(d) JAGMAN 0114

Encl: (1) BCNR file 02022-99 w/Service Record

1. Reference (a) requested comments and recommendations in response to [REDACTED] request to remove enclosure (2) of reference (b), a punitive letter of reprimand, from his officer permanent personnel record. Enclosure (1) is returned as a matter under the purview of BCNR.
2. [REDACTED] received nonjudicial punishment (NJP) on 27 Nov 96 for violation of the UCMJ, Article 111, drunken or impaired driving after his arrest by Yarmouth, Maine police, for Driving Under the Influence (DUI). Although [REDACTED] disputes the finding of the civilian BAC test (.22%), his Commanding Officer found there was sufficient evidence that [REDACTED] violated Article 111, and thereby imposed nonjudicial punishment.
3. Reference (c) directs that all substantiated DUI/DWI offenses shall be documented in appropriate administrative records. As [REDACTED] receipt of NJP elevates the incident to a "substantiated DUI" per reference (c), the report of NJP was appropriately filed in [REDACTED] record. Additionally, reference (d) states that unless withdrawn or set aside, reports of NJP will be placed in an officer's record. Accordingly, do not recommend the removal of reference (b) from [REDACTED] record.

[REDACTED]
Commander, U.S. Naval Reserve
Director, Personnel Performance &
Security Division
Acting